

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

RYAN J. POPA and ALYSSA A. POPA,)	CIVIL ACTION NO. 2:22-cv-1061
)	
Plaintiffs,)	
)	
v.)	
)	
DANIEL DAVIS and LEAH DAVIS,)	
)	
Defendants.)	
)	
)	<u>JURY TRIAL DEMANDED</u>

COMPLAINT IN CIVIL ACTION

AND NOW, come the Plaintiffs, RYAN J. POPA and ALYSSA A. POPA, by and through their attorneys, Betras, Kopp & Markota, LLC, and respectfully file the following Complaint averring as follows:

PARTIES

1. The Plaintiffs, Ryan J. Popa and Alyssa A. Popa, at all times pertinent to this action, are husband and wife who resided and continue to reside in the City of Campbell, County of Mahoning, State of Ohio.
2. The Defendants, Daniel Davis and Leah Davis, at all times pertinent to this action, are husband and wife who resided and continue to reside at 751 Moravia Road, New Galilee, County of Beaver, Commonwealth of Pennsylvania.

JURISDICTION & VENUE

3. This is an action for damages that exceeds the sum of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), and this Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) as complete diversity of citizenship exists between the parties.

4. This action arises from injuries sustained by the Plaintiff, Ryan J. Popa, when he was bitten by two dogs owned by Defendants, Daniel and Leah Davis, while delivering a package to Defendants residence located at 751 Moravia Road, New Galilee, County of Beaver, Commonwealth of Pennsylvania.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1)-(2) in that all of the Defendants are residents of the Western District of Pennsylvania, and a substantial part of the events and/or omissions giving rise to these claims occurred in this District.

FIRST CAUSE OF ACTION

6. At all times mentioned herein, Defendants owned, possessed, and/or maintained certain dogs being a Texas Heeler and Australian Shepard upon their residence located at 751 Moravia Road, New Galilee, County of Beaver, Commonwealth of Pennsylvania.

7. On or about July 25, 2020, Defendants carelessly and negligently allowed the said dogs to remain unattended; non-sufficiently and unreasonably secured or restrained; and without the reasonable control of some person, all being in violation of 3 P.S. 459-305 of the Pa. Dog Law and thereby constituting common law negligence and negligence per se.

8. At that time and place, Defendants knew, or should have known that the aforementioned dogs:

- a. were of a dangerous and vicious nature and had such propensity; and/or
- b. had previously attacked a human being without provocation; and/or
- c. had a history of attacking human beings without provocation; and/or
- d. had a propensity to attack human beings without provocation;

all being in violation of 3 P.S. 459-502-A and 3 P.S. 459-504-A of the Pa. Dog Law and thereby constituting common law negligence and negligence per se.

9. At that time and place, Defendants' dogs, without provocation and while Plaintiff, Ryan J. Popa, was lawfully on or about said property, attacked and bit Plaintiff, greatly injuring her.

10. Defendants, in acting or failing to act themselves or through their agents, servants, workmen or employees, were negligent as follows:

- a. In failing to have said dogs under the reasonable control of some person; and/or
- b. In failing to reasonably secure the said dogs by means of a collar, chain, muzzle, or other device; and/or
- c. Knowing or having reason to know the vicious propensities of the said dogs and not taking the necessary reasonable precautions in restraining it, especially when knowing that Plaintiff had the lawful right to be on or about said property.

11. As a direct and proximate result of the attack by Defendants' dogs, Plaintiff, Ryan J. Popa, suffered various injuries including, but not limited to, the following, all or some of which are likely to be permanent:

- i. Right arm, forearm, wrist, and hand injuries including, but not limited to, closed displaced right ring metacarpal bone fracture;
- ii. Bilateral lower extremity puncture wounds;
- iii. Swelling/edema of the above-mentioned injured areas
- iv. Post-Traumatic Stress Disorder, including nightmares of the incident and fear of dogs that continues to the present time
- v. Pain, Suffering, Inconvenience, and Loss of Life's Pleasures, including the following: much pain, suffering, and limitations still to the present—more than 2 years after the incident, much in the way of difficulties and limitations of the use of her right hand for all activities of daily living: i.e. driving, dressing, typing,

opening jars; lifting, squeezing or gripping, cutting food, mowing, farming duties, brushing hair, holding toothbrush, etc.

- vi. Difficulty at employment and/or loss of employment
- vii. Difficulty sleeping due to pain and nightmares
- viii. Mental anxiety and emotional distress
- ix. Interruption of daily habits and pursuits;
- x. Loss of well-being and diminished ability to enjoy life's pleasures; and/or
- xi. Great humiliation and embarrassment

12. As a direct and proximate result of the attack by Defendants' dog, Plaintiff, Ryan J. Popa, has incurred various expenses for medicine and medical attention and treatment of her injuries and expects to continue to do so into the future.

13. All of the Plaintiffs' damages are in an amount exceeding the jurisdictional limits of this Court and in an amount exceeding Seventy-Five Thousand Dollar (\$75,000.00).

WHEREFORE, the Plaintiffs, Ryan J. Popa and Alyssa A. Popa, hereby demand judgment against the Defendants, jointly and severally, in an amount exceeding the jurisdictional limits of this Court; in an amount exceeding (\$75,000.00) and in an amount for reimbursement of costs and disbursements of this action.

JURY TRIAL IS DEMANDED.

SECOND CAUSE OF ACTION

14. Plaintiffs hereby incorporate paragraphs one (1) through fourteen (14) of the Complaint in Civil Action as if fully rewritten and incorporated herein.

15. By further reason of the above captioned Defendants' negligence, the Plaintiff-wife, Alyssa A. Popa, suffered the following damages:

- a. She has been and will be required to expend large sums of money for surgical and medical attention, hospitalization, medical supplies, surgical appliances, medicines and attendance services in an endeavor to care for her husband;
- b. She has been and will in the future be deprived of the services, assistance and companionship of her husband.

16. All of the Plaintiffs' damages are in an amount exceeding the jurisdictional limits of this Court and in an amount exceeding Seventy-Five Thousand Dollar (\$75,000.00).

WHEREFORE, the Plaintiffs, Ryan J. Popa and Alyssa A. Popa, hereby demand judgment against the Defendants, jointly and severally, in an amount exceeding the jurisdictional limits of this Court; in an amount exceeding (\$75,000.00) and in an amount for reimbursement of costs and disbursements of this action.

JURY TRIAL IS DEMANDED.

Respectfully submitted,
BETRAS, KOPP & MARKOTA, LLC

/s/ Justin A. Markota
Justin A. Markota (OH I.D. No. 0092182)
6630 Seville Drive
Canfield, Ohio 44406
Telephone: (330) 746-8484
Facsimile: (330) 702-8280
Email: jmarkota@bkmlaws.com
*Attorney for Plaintiffs, Ryan J. Popa and
Alyssa A. Popa*